

SENATE FILE 2087
BY BEALL

A BILL FOR

1 An Act creating a brain injury services fund and task force,
2 making appropriations from the fund, implementing a brain
3 injury criminal surcharge, and making penalties applicable.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 135.22B, subsection 7, paragraph c, Code
2 2009, is amended to read as follows:

3 c. The program administrator shall file copies of the
4 individual's application and needs assessment with the
5 program ~~resource~~ neuro-resource facilitator assigned to the
6 individual's geographic area.

7 Sec. 2. Section 135.22B, subsection 9, Code 2009, is amended
8 to read as follows:

9 9. *Resource Neuro-resource facilitation.* The program shall
10 utilize ~~resource~~ neuro-resource facilitators to facilitate
11 program services. The ~~resource~~ neuro-resource facilitator
12 shall be available to provide ongoing support for individuals
13 with brain injury in coping with the issues of living
14 with a brain injury and in assisting such individuals in
15 transitioning back to employment and living in the community.
16 The ~~resource~~ neuro-resource facilitator is intended to provide
17 a linkage to existing services and increase the capacity of the
18 state's providers of services to persons with brain injury by
19 doing all of the following:

20 a. Providing brain injury-specific information, support, and
21 resources.

22 b. Enhancing the usage of support commonly available to an
23 individual with brain injury from the community, family, and
24 personal contacts and linking such individuals to appropriate
25 services and community resources.

26 c. Training service providers to provide appropriate brain
27 injury services.

28 d. Accessing, securing, and maximizing the private and
29 public funding available to support an individual with a brain
30 injury.

31 Sec. 3. NEW SECTION. 135.22C Brain injury services fund —
32 task force.

33 1. *Definitions.* For the purposes of this section, unless
34 the context otherwise requires:

35 a. "Advisory council" means the advisory council on brain

1 injuries established pursuant to section 135.22A.

2 *b. "Brain injury services waiver" and "program administrator"*
3 mean the same as defined in section 135.22B.

4 *c. "Consumer"* means a person with brain injury.

5 *d. "Cost share component" and "neuro-resource facilitation*
6 *component"* mean the applicable components of the brain injury
7 services program implemented pursuant to section 135.22B.

8 2. *Fund created.* The brain injury services fund is created
9 in the state treasury under the authority of the program
10 administrator. The advisory council shall provide oversight
11 for the services fund and the expenditures from the fund.
12 Notwithstanding section 8.33, moneys credited to the services
13 fund shall not revert to any other fund. Notwithstanding
14 section 12C.7, subsection 2, interest or earnings on moneys
15 deposited in the services fund shall be credited to the
16 services fund.

17 3. *Purposes.* Moneys in the services fund are appropriated
18 to the program administrator to be used for any of the
19 following purposes:

20 *a.* Providing state match funding for the brain injury
21 services waiver and the cost share component.

22 *b.* Providing funding for enhanced services and other support
23 necessary to eliminate the need for an out-of-state placement
24 of a consumer when the consumer's needs are in excess of the
25 coverage provided under the brain injury services waiver or the
26 cost share component.

27 *c.* Providing funding to identify and purchase a brain
28 injury screening tool and to implement and provide training for
29 a screening process for use by identified professionals and
30 service providers. The professionals and service providers may
31 include but are not limited to community mental health centers,
32 substance abuse treatment providers, correctional facilities,
33 and physicians and other health care professionals.

34 *d.* Providing funding for expansion of the neuro-resource
35 facilitation component for implementation of the brain injury

1 screening tool and related costs.

2 *e.* Providing funding for service provider training through
3 the neuro-resource facilitation component for any of the
4 following purposes:

5 (1) Increasing brain injury awareness.

6 (2) Encouraging the use of evidence-based treatment and
7 interventions for brain injuries.

8 (3) Implementing the brain injury screening tool and
9 screening process.

10 *f.* Providing incentive funds to attract and retain workers
11 in the field of brain injury treatment. The incentives made
12 available may include but are not limited to educational loan
13 payments and business tax credits or rebates.

14 *g.* Providing match funding for implementing activities
15 identified in the state plan for brain injury services
16 recommended by the advisory council.

17 *h.* Providing funding for the program administrator's
18 administrative expenses and other costs associated with the
19 program administrator's duties associated with the fund. The
20 administrative expenses may include the costs of additional
21 professional, technical, or clerical staff, subject to the
22 concurrence of the advisory council as to the need for the
23 staff.

24 *i.* Fulfilling the terms of any bequest, endowment, grant,
25 gift, or donation received by the services fund.

26 4. *a. Funding sources.* Proceeds from the brain injury
27 surcharge under section 911.5 shall be credited to the services
28 fund.

29 *b.* The program administrator shall establish an estate
30 bequest and donation program and any bequest, endowment, grant,
31 gift, or donation that may be used for expenditure for the
32 purposes of the fund and the program shall be credited to the
33 fund.

34 *c.* The advisory council may designate gifts, grants, or
35 donations received by the advisory council under section

1 135.22B to be credited to the fund that the advisory council
2 deems appropriate for expenditure in accordance with the
3 purposes of the fund.

4 *d.* The program administrator may credit to the fund federal
5 moneys that are appropriate for expenditure for the purposes
6 of the fund. The acceptance and use of such federal moneys
7 does not by itself commit state funds and does not obligate the
8 state to provide replacement funding if the federal moneys are
9 no longer available.

10 5. *a. Task force.* The advisory council shall recruit and
11 appoint a fifteen member task force to make recommendations to
12 the advisory council concerning the fund and purposes supported
13 by the fund. Membership terms shall be for two years. The
14 following state agencies shall provide one or more nominees
15 who are employed by the respective agency, of which one member
16 shall be selected by the council to represent each agency:

17 (1) Commissioner of insurance.

18 (2) Department for the blind.

19 (3) Department of corrections.

20 (4) Department of education, division of vocational
21 education.

22 (5) Department of public health.

23 *b.* The remaining members shall be persons with brain injury
24 or immediate family members of a person with brain injury.

25 *c.* A vacancy on the task force shall be filled in the same
26 manner as the original appointment for the remainder of the
27 term.

28 *d.* The advisory council shall designate a chairperson of
29 the task force from the task force membership. The task force
30 may designate other officers as deemed appropriate by the task
31 force.

32 *e.* A member of the task force is eligible for reimbursement
33 of actual and necessary expenses incurred in the performance of
34 their official duties.

35 Sec. 4. Section 602.8102, subsection 135A, Code 2009, is

1 amended to read as follows:

2 135A. Assess the surcharges provided by sections 911.1,
3 911.2, 911.3, ~~and 911.4~~, and 911.5.

4 Sec. 5. Section 602.8107, subsection 4, paragraph a, Code
5 Supplement 2009, is amended to read as follows:

6 a. This subsection does not apply to amounts collected
7 for victim restitution, the victim compensation fund, the
8 criminal penalty surcharge, sex offender civil penalty, drug
9 abuse resistance education surcharge, the law enforcement
10 initiative surcharge, county enforcement surcharge, brain
11 injury surcharge, amounts collected as a result of procedures
12 initiated under subsection 5 or under section 8A.504, or fees
13 charged pursuant to section 356.7.

14 Sec. 6. Section 602.8108, Code Supplement 2009, is amended
15 by adding the following new subsection:

16 NEW SUBSECTION. 6A. The clerk of the district court shall
17 remit all moneys collected from the assessment of the brain
18 injury surcharge provided in section 911.5 to the state court
19 administrator no later than the fifteenth day of each month for
20 deposit in the brain injury services fund created in section
21 135.22C.

22 Sec. 7. Section 902.9, unnumbered paragraph 2, Code 2009,
23 is amended to read as follows:

24 The surcharges required by sections 911.1, 911.2, ~~and 911.3~~,
25 and 911.5 shall be added to a fine imposed on a class "C" or
26 class "D" felon, as provided by those sections, and are not a
27 part of or subject to the maximums set in this section.

28 Sec. 8. Section 903.1, subsection 4, Code 2009, is amended
29 to read as follows:

30 4. The surcharges required by sections 911.1, 911.2, 911.3,
31 ~~and 911.4~~, and 911.5 shall be added to a fine imposed on a
32 misdemeanor as provided in those sections, and are not a part
33 of or subject to the maximums set in this section.

34 Sec. 9. NEW SECTION. 911.5 **Brain injury surcharge.**

35 1. In addition to any other surcharge, the court or clerk of

1 the district court shall assess a brain injury surcharge equal
2 to five percent of the applicable fine if an adjudication of
3 guilt or a deferred judgment has been entered for a criminal
4 violation under any of the following:

5 *a. Operating while intoxicated.* For violations under
6 chapter 321J.

7 *b. Excessive speed.* For violations in excess of the limit
8 under section 321.236, subsections 5 and 11, and sections
9 321.285 and 461A.36.

10 *c. Local traffic requirements.* For violations under section
11 321.236, subsections 3, 4, 6, and 9.

12 *d. Vehicle operation and control.* For violations under
13 section 321.275, subsections 1 through 7, sections 321.277,
14 321.277A, 321.288, 321.297, 321.299, 321.302, and 321.303,
15 section 321.304, subsections 1 and 2, sections 321.305,
16 321.306, 321.311, 321.312, 321.314, 321.315, 321.316, 321.318,
17 321.323, 321.340, 321.353, 321.354, 321.363, 321.365, 321.366,
18 and 321.395.

19 *e. Open container.* For violations under sections 321.284
20 and 321.284A.

21 *f. Safety belt and harness and child restraint.* For
22 violations under sections 321.445 and 321.446.

23 2. In the event of multiple offenses, the surcharge shall be
24 imposed for each applicable offense.

25 3. The surcharge shall be remitted by the clerk of court as
26 provided in section 602.8108, subsection 6A.

27 4. The surcharge is subject to the provisions of chapter
28 909 governing the payment and collection of fines, as provided
29 in section 909.8.

30 Sec. 10. INITIAL APPOINTMENTS TO TASK FORCE. In making the
31 initial appointments of the members who are not state agency
32 employees to the task force appointed pursuant to section
33 135.22C, as enacted by this Act, the advisory council on brain
34 injuries shall appoint five members to three-year terms and
35 five members to two-year terms.

1 EXPLANATION

2 This bill creates a brain injury services fund and task
3 force, makes appropriations from the fund, implements a brain
4 injury criminal surcharge, and makes penalties applicable.

5 Code section 135.22B, creating the brain injury services
6 program, is amended to rename the program's resource
7 facilitation component for assisting individuals with brain
8 injuries in coping with living issues and other needs, to be
9 the neuro-resource facilitation component.

10 New Code section 135.22C creates the brain injury services
11 fund. Definitions are provided including adoption by reference
12 of several terms defined in other Code sections such as
13 the advisory council on brain injuries and the brain injury
14 services waiver under the medical assistance (Medicaid)
15 program. The program administrator is the division of the
16 department designated to administer the brain injury services
17 program.

18 Moneys credited to the fund from another state fund do not
19 revert to the other fund at the close of the fiscal year as
20 otherwise provided under section 8.33. Interest or earnings on
21 the moneys in the fund are credited to the fund. Moneys in the
22 fund are appropriated to the program administrator to be used
23 for the purposes specified in the bill.

24 The following purposes are specified: match funding for
25 the brain injury services waiver and the cost-share component,
26 services to eliminate the need for out-of-state placement,
27 purchase of a brain injury screening tool and associated
28 training, expansion of the neuro-resource facilitation
29 component, service provider training, incentive funds to
30 attract and retain workers, match funding for other activities
31 identified in the state plan for brain injury services,
32 administrative costs, and fulfilling the terms of donations
33 received by the fund.

34 Funding sources for the fund are from the brain injury
35 criminal surcharge implemented pursuant to the bill, estate

1 bequests and other donations, donations received by the
2 advisory council and designated for the fund, and federal
3 funding.

4 The advisory council is required to create a 15 member
5 task force to make recommendations to the advisory council
6 concerning the fund and the purposes supported by the fund.
7 Five state agency members are included and the remainder are
8 required to be persons with brain injuries or immediate family
9 members. The initial appointments of members to the task force
10 are staggered.

11 The remainder of the bill relates to imposition of a brain
12 injury criminal surcharge in new Code section 911.5. The
13 surcharge is 5 percent of the applicable fine for numerous
14 motor vehicle operating offenses in the following general
15 classifications: operating while intoxicated, excessive speed,
16 local traffic requirements, vehicle operation and control, open
17 alcoholic beverage container, and safety belt and harness and
18 child restraint. Under Code chapter 909 a person who can pay a
19 fine and related charges and fails to do so is required to be
20 held in contempt of court.

21 Code section 602.8102 is amended to include collection of
22 the surcharge in the duties of the clerk of court.

23 Code section 602.8107, relating to collection of court debt
24 by the county attorney, is amended to include the surcharge
25 in the list of items that are exempt from collection and
26 distribution by the county attorney.

27 Code section 602.8108 is amended to require the clerk of
28 court to remit the surcharge moneys collected by the 15th day
29 of each month to the state court administrator for deposit in
30 the brain injury services fund.

31 Code sections 902.9 and 903.1 are amended to provide that
32 the surcharge is in addition to and not part of the monetary
33 maximums otherwise limiting the amounts of fines for various
34 felony and misdemeanor offenses.